

1 IN THE UNITED STATES DISTRICT COURT FOR THE
2 NORTHERN DISTRICT OF TEXAS
3 DALLAS DIVISION
4 UNITED STATES OF AMERICA,)
5)
6)
7 Plaintiff,)
 vs.) Case No. 3:16-CR-536-L
)
 ALFREDO NAVARRO HINOJOSA,)
 et al,)
 Defendant.)

9 REPORTER'S TRANSCRIPT OF PROCEEDINGS
0 HAD ON MONDAY, SEPTEMBER 20, 2021
1 PARTIAL PRETRIAL CONFERENCE CONCERNING MONEY LAUNDERING
2 BEFORE THE HONORABLE SAM A. LINDSAY,
U.S. DISTRICT JUDGE PRESIDING

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1 (THE FOLLOWING PROCEEDINGS WERE HAD IN OPEN COURT,
2 WITH ALL PARTIES AND COUNSEL PRESENT.)

3 (PARTIAL TRANSCRIPT OF MONEY LAUNDERING ARGUMENT AT
4 PRETRIAL CONFERENCE.)

5 THE COURT: All right, that is agreed to by the
6 defense.

7 All right, we will go to Mr. Hinojosa's first
8 amended Motion in Limine, document 571. The first one is
9 that Mr. Hinojosa objects to any evidence that require
10 bad acts or criminal offenses or other acts of alleged
11 misconduct pursuant to Federal Rule of Evidence 404(b).
12 Specifically, he objects to the Government's Notice of
13 Intent to Introduce Evidence Regarding Mr. Hinojosa's
14 Harboring Illegal Aliens.

15 It is the Court's understanding that the government
16 agrees not to reference the fact that Mr. Hinojosa has
17 been indicted on that charge. So if the government has
18 agreed not to bring that up during the course of trial,
19 it appears that we are all on the same page; correct?

20 MS. SMITH: That is correct, Your Honor.

21 THE COURT: Thank you. Okay, we have the second
22 matter that Mr. Hinojosa wants to keep out, and that is
23 evidence regarding money laundering. His basic position
24 is he does not want anyone from the government to refer
25 directly or indirectly that he was allegedly engaged in

1 the criminal act of money laundering because he is not
2 charged with such offense or any violation of an offense
3 of Title 18 United States Code Section 1956.

4 Now, let me hear the government's response on that.

5 MR. MEITL: Yes, Your Honor.

6 Your Honor, this is part and parcel of the issue with
7 Eric Lee as an expert. The argument by the government is
8 that we specifically reference and allege that
9 Mr. Hinojosa is engaged in money laundering in the
10 superseding indictment. Those are allegations we have
11 alleged and have to prove as part of our case.

12 He has not been charged with 18 United States Code
13 1956 or 1957, but he is charged in a conspiracy to
14 possess with intent to distribute, and his role in that
15 conspiracy includes among other things his money
16 laundering activities.

17 There are two specific paragraphs in the superseding
18 indictment that address money laundering, use those
19 words, "laundering of money." There will be evidence
20 that goes directly to that. This Court has ruled on
21 that, prior evidence. It's a fact that's been agreed to
22 be admitted. We will hear recordings where he discusses
23 cleaning money. Witnesses will testify this was an
24 effort to do exactly do that.

25 So from the government's perspective, we have

1 alleged it. We need to prove it, and so we need to be
2 able to reference the fact that keeping out the idea of
3 money laundering would change everything about the case,
4 change the way we have charged it, change our theory, and
5 would make it impossible to try the case as charged.

6 THE COURT: Well, what Fifth Circuit case says
7 that you can do that?

8 MR. MEITL: There are many Fifth Circuit cases,
9 Your Honor, that I cited, United States versus Wilson,
10 United States versus Daccarett, United States versus
11 Tapia-Ortiz, United States versus All Funds that
12 reference the fact that money laundering testimony can
13 come in to a case involving drug trafficking, and that is
14 what is happening here.

15 THE COURT: I know one case, and that particular
16 Fifth Circuit case the person was charged with money
17 laundering in a drug conspiracy.

18 MR. MEITL: Yes, I believe you are speaking of
19 United States versus Wilson, and that is correct.

20 THE COURT: I guess what I am saying in that
21 particular case, the defendant was actually charged with
22 money laundering as well as a drug conspiracy.

23 MR. MEITL: Yes, Your Honor, the reason those
24 cases were cited, and they were cited in our response on
25 Eric Lee. We were talking about whether expert testimony

1 on these issues should be allowed, but it is correct that
2 he was charged with an 841, 846, and then a 1956 in the
3 Wilson case.

4 Now, we have charged Alfredo Hinojosa in a wide
5 ranging conspiracy and have made specific allegations in
6 our superseding indictment, and those allegations include
7 the fact that he launders money. We believe there is
8 more than sufficient evidence to lay that allegation. We
9 will hear testimony about that exact thing. We will hear
10 his own words saying those things.

11 So it would be, I guess, curious to allow us to
12 present evidence where the Defendant says, "Let's clean
13 some money." And the witness will say, "I meant launder
14 money." But then not to allow the government to say that
15 defendant is laundering money, those two things are
16 converse.

17 We have charged him in the conspiracy with the
18 specific theory that his role in the conspiracy was to
19 maintain premises and to launder money, launder drug
20 money. So the from the government's perspective, it is
21 very straightforward because he is alleged to have
22 engaged in that exact conduct, and there is evidence,
23 direct evidence, his own words, where he is doing that.

24 THE COURT: Let me hear the Defense's response,
25 Mr. Lewis.

1 MR. LEWIS: We don't feel like just because it
2 was just said, I will reference what Mr. Meitl said as
3 part of our theory under the conspiracy to possess with
4 intent to distribute drugs, that he managed the premises,
5 and that he was a money launderer.

6 They charged managing a drug premises. They have
7 not charged the money laundering, and the question is
8 why? In I mean, order to figure out what they are trying
9 to do, you have to ask the question, I mean, why do you
10 want to spend so much time talking about a substantive
11 crime that is not charged?

12 And the reason why is I believe they believe that
13 conclusion, but they don't want to be held to a burden of
14 proof regarding the specific points, the specific proof
15 that would be required for this to be on the line, for
16 him to be proven guilty or not guilty. They don't want
17 to have to prove those elements beyond a reasonable
18 doubt, but they want to talk about him being money
19 laundering. Because if they are able to do that, then it
20 makes the rest of their case easier. I think that this
21 is a clear 403 violation.

22 I think this -- it would be akin to pick a crime
23 that is uncharged, and then all of a sudden rather than
24 we are dealing with, I don't know, let's say that it is
25 not money laundering. Let's say that it is murder, and

1 you sit there and talk about how this guy is a murderer,
2 he is a murderer, a murderer with drugs. Lots of time we
3 have lots of people get killed. This guy is a murderer,
4 so we want you to find him guilty for drug conspiracy.
5 It makes no sense. It is too prejudicial.

6 It is one of those things. We don't get a say in
7 what crimes we have to defend. We don't get a say in
8 what goes in the indictment. So we have got to play the
9 hand that we are dealt, and the hand that was dealt is
10 not a money laundering hand.

11 So for some reason they made the decision we are not
12 going to charge him with money laundering. Money
13 laundering gets charged all the time. But we want our
14 cake and we want to eat it too. We are not going to
15 charge it, but we are going to ask the judge if we can
16 talk about it a whole lot. We are going to ask the judge
17 if we can bring in an expert witness who talks about
18 money laundering and how you set up companies and shell
19 companies and how it is all related to money laundering.
20 They want to try a money laundering case against Alfredo
21 Hinojosa. They just don't want to charge it, and they
22 shouldn't be allowed to do that.

23 THE COURT: Well, the question I have for the
24 government is this. When you talk about 404(b) evidence,
25 you are talking about whether it goes to an issue such as

1 proving motive, opportunity, absence of mistake, plan,
2 knowledge, preparation, identity, and so forth, and
3 intent.

4 So the question I have is, how does it go to prove
5 any of those with respect to the charged counts?

6 MR. MEITL: Your Honor, this is not 404(b)
7 evidence. This is intrinsic evidence to the conspiracy.
8 We did not notice it as 404(b) evidence. We do not
9 believe it is 404(b) evidence.

10 THE COURT: Okay, well --

11 MR. MEITL: Our argument is it is not that. Our
12 argument is that he is charged in a drug conspiracy, and
13 this is direct evidence of his role in that conspiracy.
14 A drug conspiracy, a conspiracy to possess with intent to
15 distribute cocaine includes many types of individuals.
16 In this case, it includes the people who moved the
17 money. As the Court knows that is a very routine way for
18 the government to charge money launderers.

19 We charge them in drug conspiracies all the time and
20 hold him accountable that way. We can also charge them
21 other ways, but we charge them in the way that makes most
22 sense for that case.

23 In this case, we charged them in a larger conspiracy
24 and his roles in that include money laundering, and
25 include the maintaining a drug premises, and allowing

1 drug sales to flow through his clubs.

2 THE COURT: All right, so you are saying this is
3 intrinsic evidence?

4 MR. MEITL: Yes, Your Honor, as alleged in our
5 superseding indictment. Paragraphs 2 and 3 focus
6 entirely on that. I can read those to the Court if that
7 would be helpful.

8 THE COURT: No, that is okay. We have looked at
9 them. All right, one minute, please.

10 (PAUSE IN PROCEEDINGS.)

11 THE COURT: Mr. Lewis, you stated that the
12 government, that is, Mr. Meitl has stated that the
13 government is not using this as extrinsic evidence. He
14 said extrinsic evidence, and, therefore, is not relevant
15 as to 404(b) evidence. What is your response?

16 MR. LEWIS: I mean, I know what he is saying. He
17 is saying what he feels like he needs to say to get into
18 money laundering. It is not intrinsic. This is not
19 intrinsic to the case. This is not intrinsic evidence.
20 I mean, it can be characterized however you want to
21 characterize it. I mean, it certainly is something that
22 would fall under 404(b).

23 It is something that is governed by 404(b). It is
24 certainly something that they would claim are other bad
25 acts. They are trying to characterize it in a way that

1 may potentially fly, but it doesn't change the situation.
2 It doesn't change that what they are trying to do is
3 improper, that they are trying to try a money laundering
4 case without being held to the specific elements of money
5 laundering.

6 THE COURT: All right, I didn't want to state
7 anything incorrectly. I had my law clerk, Mr. Lattimore,
8 pull a case that I had worked on where we talked about
9 intrinsic evidence, and this is what I want to hear from
10 the government.

11 When we talk about other acts, evidence is intrinsic
12 when one, it is inextricably intertwined with the charged
13 evidence; two, when both acts are part of the same
14 criminal episode; or when the other act was a necessary
15 preliminary step in order for completion of the charged
16 crime. I want each of those discussed by the government,
17 and tell me which one it falls under.

18 MR. MEITL: Yes, Your Honor, it falls certainly
19 under the first two. I'm sorry. I don't have those in
20 front of me, if the Court could repeat them all, I will
21 address them.

22 THE COURT: Sure. One example of intrinsic
23 evidence is when it is inextricably intertwined with the
24 charged offense. Let's discuss that one.

25 MR. MEITL: Yes, Your Honor. Here, the

1 government's allegations against Mr. Hinojosa is that his
2 role in the drug conspiracy is that he launders money
3 that is conducted to drug trafficking, and that he then
4 allows others to sell drugs in his night clubs and he
5 profits off of that.

6 That is the theory of the government. That is the
7 charge. We put that in our superseding indictment. That
8 is the entire crux of our case against Mr. Hinojosa as to
9 the conspiracy. So, therefore, not only is it
10 intertwined, it is the entire allegation.

11 There is no allegation that Mr. Hinojosa personally
12 possessed cocaine and handed it out to people below him.
13 There is no evidence of that. We have never suggested
14 that.

15 He was much higher than that, and his role was to
16 allow others to do it, and then to move the money. That
17 is our allegation. That is why he is charged in a drug
18 conspiracy. That is what the grand jury found. That is
19 where we are. There has not been a motion to dismiss
20 based on that. There has not been a motion the strike
21 surplusage from the indictment based on that. That has
22 been the government's theory since we indicted the case
23 years and years ago. Nothing has changed about that. It
24 is inextricably intertwined, if not central to the
25 government's allegation.

1 THE COURT: All right, the second is when both
2 acts are part of the same criminal episode.

3 MR. MEITL: Yes, Your Honor. So his role in the
4 conspiracy is to launder money. Without the laundering
5 of the money, the conspiracy falls apart. There is no --
6 it is the central part of the clubs role in trafficking
7 drugs.

8 So both parts -- I guess I am trying to understand
9 what they mean both parts -- but his role, laundering
10 money, is absolutely part of the conspiracy. It is
11 connected to it. It is part of it. It is his central
12 role. I am not sure what they are referring to as both
13 parts. I'm trying to think that through.

14 THE COURT: "When both acts are part of the same
15 criminal episode," that is what the Fifth Circuit said.

16 MR. MEITL: So, Your Honor, if the two acts being
17 the drug trafficking and the laundering of the money,
18 they are necessary for each other. One doesn't succeed
19 without the other. You can't just sell drugs and then
20 hold the money. You have to figure out a way when you
21 are working in these large of numbers to launder the
22 money. That is exactly what we will be able to prove
23 during this trial both through eyewitnesses and
24 co-conspirators and through our expert.

25 THE COURT: I think you addressed the third one,

1 the third one is the other act, quote, unquote, was a
2 necessary preliminary step for the completion of the
3 charged crime.

4 MR. MEITL: You are right. I did address that as
5 well. Your Honor, you can't succeed in a large scale
6 drug trafficking organization without the laundering
7 money.

8 THE COURT: What are the describing as the
9 criminal episode? It talks about when both acts are part
10 of the same criminal episode. What is the criminal
11 episode to which you are referring?

12 MR. MEITL: The criminal episode here would be
13 charged conspiracy and count -- one moment, Your Honor.

14 (PAUSE IN PROCEEDINGS.)

15 MR. MEITL: Count 25, Conspiracy to Possess with
16 Intent to Distribute a Controlled Substance. We allege
17 between August 2012 and May 2017, Mr. Hinojosa and
18 several other defendants engaged in that conspiracy.
19 That is the criminal episode. That is a drug trafficking
20 conspiracy. Money laundering is part and parcel of it.

21 THE COURT: What about Count 21?

22 MR. MEITL: Count 21 is a conspiracy to structure
23 and evade -- I am sorry -- give me one second. I want to
24 make sure I am citing the right one. That is the
25 Conspiracy to Structure to Evade Reporting requirements.

1 That is a very specific set of actions that Mr. Hinojosa
2 took. Certainly, the conversation where he is asked to
3 clean money and agrees to do so as part of that is the
4 key evidence in there. He is not charged with money
5 laundering in that count, but again, that -- that is one
6 of the overt acts or one of the primary acts that make up
7 his role in the overall conspiracy as well, the
8 conspiracy to distribute drugs. I am sorry.

9 So Count 21 in many ways is subsumed into Count 25.
10 It will be the government's position if they find
11 Mr. Hinojosa guilty of Count 21, they should necessarily
12 find him guilty of Count 25. Now, there are other ways
13 they could find him guilty of Count 25 if they didn't
14 find in 21, but Count 21 effectively satisfies his role
15 in the conspiracy.

16 THE COURT: Thank you, Mr. Meitl.

17 Mr. Lewis?

18 MR. LEWIS: Yes, Your Honor.

19 THE COURT: Do you wish to respond or reply to
20 this argument by the government?

21 MR. LEWIS: Your Honor, we stick by our original
22 assessment. First of all, what Mr. Meitl is saying is
23 not fact about the cleaning money, about that. It's
24 conclusion that works into his theory. These are his
25 theories and, of course, there will be ample fighting

1 about that during in trial.

2 That he is a money launderer is a conclusion. It
3 is not -- he wants to say it because it is so
4 inflammatory, and he is not required to prove it. He can
5 just say, for instance, that they are rolling bags of
6 money in there without there being any evidence, maybe a
7 cooperator that says it's true, but we actually have the
8 envelopes that did not contain any money.

9 So for every conclusion that he states, I too have
10 a conclusion, but and they are competing, but the idea
11 that -- and he doesn't have to have -- by the way, he
12 doesn't have to have the money laundering because he has
13 got him -- if they got him on managing a drug premises.
14 Then the drugs that are allegedly sold out of the
15 premises are part of the conspiracy. That is the
16 conspiracy. But they want to throw in the money
17 laundering without proving the elements of money
18 laundering. They want to talk about it. They want to
19 call him a money launderer because then it becomes scary.
20 Then their burden becomes a little bit less because they
21 have confused the issue. They have brought in other bad
22 things without having to be subject to 404(b) by calling
23 it intrinsic, they are going to make this case about
24 money laundering. They want this to be a money
25 laundering trial. They just don't want to charge him.

1 Why don't they want to charge it? They don't want to
2 charge it because they can't prove the elements beyond a
3 reasonable doubt. So what is the next best thing -- the
4 next best thing is well, if we can talk about it. If we
5 can call him this, if we can name him, then it makes our
6 likelihood of success on these other things maybe just a
7 little bit better.

8 But What it really does is it confuses the issues.
9 It is the danger of unfair prejudice, substantially
10 outweighs any probative value whatsoever. So, once
11 again, we don't get to pick our charges, but this is a
12 situation where they are trying to make the whole case
13 about money laundering, and that is what they have the
14 least amount of evidence on is money laundering.

15 THE COURT: Well, the defense is saying 404(b),
16 and the government is saying it is intrinsic. In other
17 words, the government is saying you do not even consider
18 or call into play the Beacham case. They are saying it
19 is intrinsic. It is not 404(b) evidence, that it falls
20 within the definition of intrinsic evidence.

21 I guess by the same token, Mr. Lewis, I would like
22 to hear you address those three things that the Court
23 talked about about intrinsic evidence. In other words,
24 when you talk about intrinsic evidence, we are talking
25 about evidence being intrinsic when it is inextricably

1 intertwined with the charged offense, or when both acts
2 are part of the same criminal episode, or whether the
3 other act was a necessary preliminary step toward the
4 completion of the charged offense.

5 I want you to tell me why each one of those, and I
6 would be happy to repeat them for you as you go through
7 them does not apply.

8 The first one is whether the evidence concerning
9 money laundering is inextricably intertwined with the
10 charged offense.

11 MR. LEWIS: It's not.

12 THE COURT: What charged offense are we talking
13 about?

14 MR. LEWIS: Any of them. It doesn't apply to any
15 one of these things. I mean, we know that they did all
16 of these control buys. They marked their bills. They
17 did that.

18 I don't know that you know that the FBI then goes
19 in, and there is a Loomis deposit that has all the cash
20 from the club the night before because they were
21 convinced that Mr. Hinojosa was getting a benefit of that
22 cash, that that was part of the cash that he was
23 laundering. They didn't find one marked bill, not one
24 that they used that they used to go in and buy dope with.

25 There is no evidence of money laundering in this

1 case. Now, they can say it. They can try to make it, so
2 it is not inextricably intertwined because it didn't
3 happen.

4 So on a normal drug conspiracy case, are we talking
5 about some guys that are unassociated with a premise
6 going into the premise, selling dope out of bathrooms.
7 That is not a normal drug conspiracy case. Normal drug
8 conspiracy cases, people get busted with a bunch of dope,
9 and you know there is money associated with that dope and
10 where is the money going. That is not how this even
11 occurred.

12 Their original working theory was this that
13 Alfredo Hinojosa must have been supplying the dope to the
14 people in the bathrooms. Nope. That was wrong. The
15 second one. He must have been receiving a financial
16 benefit, a direct financial benefit from the people
17 selling the dope in the bathrooms. No. Completely
18 wrong.

19 They change it again. Now, the third one is well,
20 he didn't know the guys in the bathroom that were selling
21 the dope. He didn't supply the drugs. He didn't receive
22 a direct financial benefit, but he must have received an
23 indirect financial benefit because his patrons wanted to
24 come to the club. When they come to the club, if
25 somebody wanted to go a bump of cocaine, they wanted to

1 be able to do it there.

2 So there was an indirect financial benefit in that it
3 was something that some of his patrons wanted. I can't
4 argue a negative. This is not a money laundering case
5 and, it is not a normal drug conspiracy case.

6 They are saying he didn't do enough to eradicate it.
7 He knew it was going. He thought it was indirectly
8 financially beneficial to his business. He didn't do
9 enough to eradicate it. That's their case. But the
10 problem is if that's all they talk about, if that's what
11 they want, it is not all that salacious, but if we can
12 call him a money launderer, if we can say he has all of
13 these different companies and that is consistent with
14 somebody who would do money laundering.

15 So it is all this innuendo which is what a trial is
16 not supposed to be. It is not supposed to be about
17 innuendo. Read Eric Lee's his designation. What he is
18 saying this is consistent with somebody who would
19 possibly be doing this, we are going to spend the
20 majority of the trial what might have happened and what
21 typically happens in the money laundering situation, and
22 they want to make that shoe fit on Alfredo Hinojosa, and
23 they didn't charge it. It doesn't fit any of these
24 things unless you accept the proposition that he was
25 laundering money.

1 That has not been proven and it can't be proven
2 because there is not even enough to charge him that is
3 why they didn't charge it. This wasn't some sort of
4 plan, you know, we got him on money laundering, but we
5 are not going to charge him because we are going to do it
6 this way. No, they can't prove it. The next thing we
7 don't have to prove it as long as they let us talk about
8 it. So that is why it shouldn't be allowed.

9 This is 403 one hundred percent. It is unfairly
10 prejudicial. It doesn't have anything to do with this
11 case.

12 MR. KNOX: Judge, may I speak briefly.

13 THE COURT: Well, is your client charged with
14 this?

15 MR. KNOX: No, Judge.

16 THE COURT: You can have a seat then.

17 MR. KNOX: But he is the conspiracy that the
18 government has just spent --

19 THE COURT: Wait just a minute. Remember what I
20 said earlier, that was about if your client is not
21 charged with a particular count, then I don't know why
22 you would be objecting.

23 MR. KNOX: Count 25 is the conspiracy with all of
24 us.

25 THE COURT: That's why I asked the question. You

1 said no at first. The way I understand it, it appears to
2 me that we are talking about Counts 21 and 25; is that
3 correct?

4 MR. KNOX: I believe so, yes, sir, Judge. Those
5 are the two conspiracies. My client is, in fact, charged
6 in Count 25.

7 THE COURT: Okay, all right. If your client is
8 charged with one of the counts, you have the right to
9 talk about it.

10 MR. KNOX: So I think from a peripheral, Judge,
11 from a different perspective, this is the danger here in
12 raising this is that it is 403 certainly for Mr. Casas.
13 It is irrelevant. It is not charged
14 conduct. The government could have charged it, but now
15 they are in here saying that without Mr. Hinojosa's role
16 as laundering money, the conspiracy with my client falls
17 apart. And to me, the mental gymnastics to grasp that
18 when Mr. Casas's charges as far as I have understood it
19 thus far is managing a drug premise will certainly cause
20 me to have to explore money laundering issue. I don't
21 see anyway around it what the Court represented to the
22 Court.

23 I would like to point out to the Court, based on
24 the definition of intrinsic evidence, paragraph number 10
25 of the government's superseding indictment specifically

1 says, "Although Hinojosa and these managers did not
2 personally sell or handle cocaine, did not take a direct
3 cut of cash obtained from the cocaine sales, Hinojosa,
4 Casas, and Rodriguez relied on the drug sales inside the
5 night club to drive the profits. They knowingly
6 permitted and provided a means for such drug sales to
7 continue at the clubs that they owned and operated."

8 I have no earthly idea why money laundering would be
9 intrinsic with what the government has written in
10 paragraph 10 of their own superseding indictment. This
11 is the elements that they are trying to prove or at least
12 some of the elements as it pertains to managing a drug
13 premises. The government could have charged money
14 laundering. They did not. It's a back door and a back
15 door that Mr. Casas will have to also defend as it
16 pertains to the conspiracy.

17 MR. MEITL: Your Honor, if I may, I have five
18 cases where courts including the Fifth Circuit has
19 allowed this kind of evidence brought into a drug
20 conspiracy and found it to be intrinsic. I can identify
21 those for the Court. They are also in docket 473, page
22 7. This was in a filing that the government made.

23 Let me read some parentheticals if it is helpful.
24 This a Fifth Circuit case. "Finding that certain
25 financial transfers not charged in the indictment were

1 inextricably intertwined with the transactions charged in
2 the indictment as part of a single fraudulent scheme and
3 were admissible as intrinsic evidence."

4 United States versus Gonzalez, the parenthetical
5 says, "finding that evidence of other financial
6 transactions are admissible as direct evidence to prove a
7 defendant's involvement in a conspiracy to conduct
8 financial transactions involving proceeds of narcotics
9 trafficking."

10 Then there is United States versus Lorenzana-Cordon
11 case, "finding evidence regarding laundering drug
12 proceeds is intrinsic to the drug trafficking
13 conspiracy."

14 And then a D.C. Circuit case, United States versus
15 Tarantino, quote, Laundering of funds is a part of the
16 plan to distribute cocaine. A conspirator well knows
17 that cocaine money has to be cleaned up to be useful to
18 them.

19 It is not the government making this argument. It
20 is the courts saying this, and the courts finding this
21 exact thing. That is what the government has relied
22 upon.

23 As to Mr. Knox and Mr. Medders, I think Mr. Medders
24 is going to join with Mr. Knox that the allegations of
25 money laundering against those defendants, we don't have

1 those allegations. The allegations of money laundering
2 is Mr. Hinojosa. Mr. Hinojosa is the one who is
3 laundering the money. He is the one in charge.
4 Their role in the conspiracy is that they maintained a
5 drug premises and knowingly allowed that to occur,
6 encouraged it, instructed it.

7 Beyond that, you won't hear evidence related to the
8 money laundering activities of Mr. Casas and
9 Mr. Rodriguez because we are not presenting that.
10 Finally, Mr. Lewis has the narrative of why we did what
11 we did. He is incorrect. We followed the evidence where
12 it went. We charged the crimes that were committed.
13 That's what happened.

14 I know he thinks he has it right, but that's not
15 what happened. We charged the crimes that were committed
16 following our investigation. We never at any point
17 thought Mr. Hinojosa was the one handing the cocaine to
18 the bathroom dealers. That was never the government's
19 theory from the day it started, and I was there because I
20 was here for the day it started.

21 MR. LEWIS: Your Honor, just what he said just
22 then. We charged the crimes that were committed, yet
23 money laundering was not one of them.

24 MR. MEITL: That is not what I said.

25 MR. LEWIS: You did say that.

1 MR. MEITL: I said we charged the crimes that
2 were committed. He is charged in a drug conspiracy. His
3 role in that is to engage in money laundering and to
4 maintain a drug premises. That is what we call the
5 facts. He wants us to charge other crimes. We didn't do
6 that. That is not for anyone to decide. The issue is
7 the crimes that are charged and his role. If the Court
8 removes half of the allegations that Mr. Hinojosa was
9 involved in, even though we are going to have evidence of
10 a specific recording where his voice is on there saying
11 "Let's clean some money," the jury is going to be
12 confused by that I would think because they are going to
13 hear evidence of that. They are going to want to know
14 what is going on and yet the government can't talk about
15 it? That doesn't strike me as making much sense. And
16 finally, Judge --

17 THE COURT: Let me ask this question because both
18 sides are going to have to clean up their respective
19 position. Nobody has addressed confusion. Here we are
20 lawyers and the judge talking over this issue. It is
21 causing this much debate, this much controversy. How are
22 twelve lay people going to understand it insofar as
23 processing the information in determining how to find the
24 Defendants guilty.

25 MR. MEITL: Your Honor, I think that is a very

1 good point that is why we have expert. Just so we are
2 clear about that.

3 THE COURT: Well, before we do that. Even before
4 that, I guess there seems to be something -- well, there
5 is. There is something that has not satisfied this
6 Court's concern about confusion, and that's where 403
7 comes in. Even if evidence is relevant and all of that,
8 403 has about four or five different categories whereby
9 the Court can exclude evidence, if it is unduly
10 prejudicial, if it causes confusion to the jury, if it
11 constitutes a waste of time, if it -- there are a couple
12 of others. I can't recall. My memory is lapsing at this
13 time because we have been talking about so much.

14 But the key is what I am concerned about really more
15 than anything are unfair prejudice and confusion.

16 MR. MEITL: Yes, Your Honor.

17 THE COURT: Because let's make it clear. How do
18 we explain what type of instruction can there be given to
19 explain that Mr. Hinojosa is not charged in any count
20 with money laundering, but nevertheless we are discussing
21 it? How is the jury going to process that information so
22 that it is not confused?

23 MR. MEITL: I think it would be very simple, Your
24 Honor.

25 THE COURT: Well, it may be simple from the

1 government's perspective, but I am looking at overall
2 fairness. Are you talking about a limiting instruction?
3 I think one of the cases that maybe the government cited
4 said the Court give a limiting instruction -- I think it
5 was a Suarez case, I believe, if my memory is correct. I
6 believe it was the Suarez case. The Court gave an
7 instruction that that defendant was not charged with such
8 and such crime, or something to the effect that you are
9 often here to determine whether or not the defendant is
10 guilty of the counts charged in the indictment.

11 I think the defense's concern is this, you said
12 quite simply. I think their concern is quite simply
13 this. Is the person going to be convicted because the
14 jury believes he laundered money or because the jury
15 believes that he committed the elements of the counts in
16 the indictment?

17 MR. MEITL: Your Honor, I think it will be very
18 simple that we will be saying in opening statement or
19 thereabouts that he is charged in a drug conspiracy. The
20 evidence will show that he engaged in that conspiracy in
21 two ways. He maintained a drug premises and allowed
22 others to sell drugs and engaged in the money laundering
23 of the drug proceeds.

24 We will prove that during the trial. Count 21 is a
25 Conspiracy to Structure Transactions to Evade Reporting

1 Requirements. There will be evidence, his own words --

2 THE COURT: Who is going to define money
3 laundering?

4 MR. MEITL: We have proposed that our expert
5 identify it for the jury. It's a complicated issue that
6 they --

7 THE COURT: No, experts don't tell the jury what
8 the law is.

9 MR. MEITL: We are not asking that, Your Honor.

10 THE COURT: That is effectively what you are
11 saying. The expert does not tell the jury what the law
12 is about money laundering. Now, that -- I know I can
13 pull up some cases on that about the law. Experts do not
14 tell the jury what the law is. That is a big problem, if
15 that is the approach that is being made

16 MR. MEITL: Your Honor --

17 THE COURT: Let me finish, and I will let you
18 make a record. I am not saying how I am going to rule on
19 this, but the quote, unquote, expert, and let me go ahead
20 and say this before I forget this. During the trial, we
21 are not going to use the term "expert." You will say
22 opinion witness or 702 witness. I want to make that
23 perfectly clear. Do not ask any witness whether he or
24 she has been qualified as a, quote, unquote, expert.

25 The Fifth Circuit is clear on that. They have

1 cited -- they have done a couple of cases whereby they
2 say if the Court qualifies a person as an expert, that
3 puts too much of the Court's imprimatur on that witness's
4 testimony. What I do say if a person is properly
5 qualified and it is determined that his or her testimony
6 is relevant, that is, it will assist the jury in
7 determining some issue or consequence in the case, and
8 that testimony is reliable, he or she may testify in the
9 form of an opinion.

10 We do not say a witness is an expert. I want to
11 make certain everybody from both the defense and the
12 government understands that. We do not use the term
13 "expert." There some Fifth Circuit pattern jury
14 instructions on that. Even before they came out, I was
15 instructing Counsel for both sides on that.

16 So I guess my concern is why would an expert be
17 explaining what the law is?

18 MR. MEITL: Your Honor, we are happy to work with
19 the parties and the Court if the Court thinks we need an
20 instruction on that. I don't know that we do.

21 THE COURT: I think do you because -- well, I
22 guess what my concern is, there are several cases that I
23 know and a couple of criminal cases, the Court explains
24 what the law is not some individual. There may be some
25 basic things, I mean, that everybody knows, but when you

1 get into complicated matters like this, that can be an
2 issue.

3 MR. MEITL: Yes, Your Honor. I was going to cite
4 the United States versus All Funds court case that we
5 have cited in our pleadings, and the quote the Court
6 says, "Sophisticated drug money laundering activities
7 such as those relied on by the claimants are proper
8 subject for expert testimony. The methods of moving
9 currency internationally and the maintaining of corporate
10 and bank records are not subjects easily understood
11 without some expert assistance."

12 Our witness, our opinion witness will testify as to
13 that. We had intended to have him describe very
14 generally, very briefly, what it means to launder money.
15 If the Court doesn't like that, that is okay. That is
16 generally what money laundering experts or opinion
17 witnesses do. We can certainly adjust that if the Court
18 doesn't like that. But I don't -- money laundering is a
19 term that lay people know. They may not know what it
20 means. That is where the opinion witness can come in and
21 explain it to them.

22 THE COURT: Basically, in lay terms be talk about
23 money laundering, it is money obtained from an illegal
24 source that is quote, unquote, cleaned up to make it
25 appear as though it came from a legitimate source.

1 MR. MEITL: Yes, Your Honor.

2 THE COURT: That's it in a nutshell.

3 MR. MEITL: That's right, and that's almost all
4 the opinion witness will say on that issue until moving
5 on to what happened in this case, but as the Court can
6 imagine there are some jurors who don't actually
7 understand what the Court just said so they need that
8 explained to them. Now, if the Court preferred to have
9 that in an instruction, I am fine with that. I don't
10 think it is necessary because I don't think we disagree
11 on what it is and the opinion witness can think that.
12 They have their own opinion witnesses they have
13 identified.

14 THE COURT: I want to make certain that the jury
15 which will be composed, I am almost certain, primarily of
16 lay people understand that.

17 MR. MEITL: Yes, Your Honor. One other point I
18 would like to make though is this. This evidence is not
19 going to pervade the trial. I anticipate the first 20
20 witnesses, there won't be a reference to it because we
21 are going to be focused on the drug transactions and
22 interactions between the defendants and cooperators.

23 As we get towards the end of the case, we will start
24 focusing on Count 21 and there will be discussion of the
25 transactions that developed into Count 21 and then we

1 will bringing in a key cooperator that all the parties
2 know about, Mr. Novoa, and he will talk about his role in
3 that and what he was doing with Mr. Hinojosa. And then
4 we will bring in the opinion witness, Mr. Lee, and he is
5 the one who is going to focus on that. His testimony may
6 be an hour or two, so this is not something that is going
7 to be throughout the trial. As I told the Court, we
8 narrowed down the issues and we're going to try to go as
9 rapid fire as we can. This will not waste time. This
10 will not confuse the jury and it is not prejudicial
11 because money laundering in and of itself is not
12 prejudicial. It is no less prejudicial than accusing
13 someone of being involved in a massive drug conspiracy as
14 we have with Mr. Hinojosa.

15 Money laundering on its own is not murder. It is
16 not rape. It is not something that inflames the passions
17 of the juror.

18 MR. LEWIS: It is criminal.

19 MR. MEITL: He is charged with crimes. We have
20 alleged crimes. We have put him in conspiracy. We are
21 alleging he is engaged in financial transactions to hide
22 money. That is not the type of prejudicial evidence that
23 inflames a jury.

24 The type of evidence the Court would be concerned
25 about would some type of violent activity, some type of

1 sexual activity, something that every juror gets alarmed
2 about. The money laundering testimony is going to be
3 very cold. I don't anticipate that the jury is going to
4 find it all that interesting.

5 MR. LEWIS: Then don't put it on.

6 MR. MEITL: Just because it is not interesting
7 doesn't mean it is not relevant and not important.

8 MR. LEWIS: Judge, may I say something that cuts
9 right to the heart of the matter?

10 THE COURT: You may.

11 MR. LEWIS: You can only have money laundering if
12 you have dirty money. They say the dirty money came from
13 cocaine sales in the bathroom, but they also say
14 paragraph 10, "Although, Hinojosa and these managers did
15 not personally sell or handle cocaine and did not take a
16 direct cut of the cash from cocaine sales." There is no
17 money laundering.

18 MR. MEITL: That has never been our theory.

19 THE COURT: One at a time.

20 MR. LEWIS: There is no money laundering, if
21 there is no dirty money. The government can't say that
22 they -- Hinojosa and the managers did not take a cut of
23 that cocaine that was being sold, the conspiracy. But
24 here he is laundering money. How is he laundering money
25 associated with this conspiracy if they didn't take a cut

1 of cocaine sales.

2 If they didn't take a cut of dirty money, there is
3 nothing to launder, and those are their words in the
4 superseding indictment, paragraph number 10.

5 MR. MEITL: Your Honor, that has never been our
6 theory of the case. The cocaine that was sold in the
7 bathrooms is pennies, pennies on the dollar for what this
8 man was involved in. He was not interested in a cut of
9 the little \$20 bag of cocaine. That has never been
10 theory. We didn't allege it. We never suggested that.
11 Mr. Lewis would know that -- he should know
12 that. The theory of the government's case is he is
13 involved in massive money laundering for drug cartels,
14 and we have proof of that through a specific recorded
15 conversation where he then launders \$140,000.

16 MR. LEWIS: That would be a different case. That
17 wouldn't be in this indictment.

18 THE COURT: Wait a minute. One at a time now. I
19 will let each person say what he has to say, and we will
20 move on. Do not interrupt Counsel. Go ahead and finish
21 your point.

22 Mr. Lewis, you can counter.

23 MR. MEITL: Your Honor, it is not separate. It
24 is all connected. The drug sales in the bathrooms drove
25 the revenue of the clubs. The revenue of the clubs was

1 used as a front to launder the money for drug cartels.
2 He needed a sufficient cash basis in the clubs, a very
3 significant amount of cash that was flowing through
4 there, and he needed those clubs to be profitable. They
5 couldn't close, so the cocaine sales allowed them to stay
6 open so he could launder money as he did, and that is
7 exactly what I think we can prove in this trial.

8 Now the cocaine sales in the bathroom themselves,
9 they could argue.

10 THE COURT: Can I ask a question? If the
11 government can prove that he laundered the money, why
12 didn't the government just charge him with that?

13 MR. MEITL: Your Honor, I know the Court is not
14 asking me why we didn't charge certain counts versus --

15 THE COURT: I told my law clerk this is going to
16 be a real donnybrook. It's going to go back and forth.
17 It will go back and forth, this issue, and I have not
18 decided which way I am going to rule on this because I
19 think to be honest with you, it's a much more complex
20 issue than either side realizes.

21 MR. MEITL: Your Honor, there are lots of reason
22 we charged the case we did. Some I can talk about in
23 court; some I cannot.

24 THE COURT: I understand.

25 MR. MEITL: But it is not because I don't think

1 he is engaged in money laundering.

2 THE COURT: No, I understand you have
3 prosecutorial discretion and all that. My point is, I
4 guess you clarified this, you said the 702 witness
5 Mr. Lee's testimony would probably take an hour or so. I
6 guess what you are telling me overall with respect to the
7 time the trial is going to take that is a small part of
8 the trial. That is what I gathered from your comments.
9 I don't want to misinterpret anything you said, but that
10 was the gist of what I took from your earlier comments.

11 MR. MEITL: Yes, sir. The money laundering
12 discussion will be limited to --

13 THE COURT: This is what I do not want to happen.
14 This is what I want to make certain is addressed. If he,
15 Mr. Hinojosa is convicted, I want him convicted of the
16 counts in the indictment, not for the jury to say, Oh,
17 well, he committed money laundering, he must have done
18 this. That is what my concern is. It is just like
19 however you characterize the evidence, the question
20 becomes is whether it is going to cause confusion or
21 unduly prejudicial. That is my concern. And you have
22 addressed pretty much the, quote, unquote, waste of time
23 aspect of Federal Rules of Evidence 403, but my main
24 issues are confusion or undue prejudice, and we will take
25 another look at those cases cited by the government.

1 I do not think there is too much more that either
2 side can tell me at this point about this. It is time
3 for the Court to make a decision.

4 MR. MEDDERS: Your Honor --

5 THE COURT: I am sorry, Mr. Medders, this monitor
6 blocked me.

7 MR. MEDDERS: I was telling Mr. Gibson I need to
8 be taller. Since we are talking about this, and it is
9 now moved over to this side of the room. I would like to
10 ask the government for all of us just to identify, what
11 is the source of the laundered funds or alleged to have
12 been laundered? You said it is not the drugs in the
13 bathroom.

14 MR. MEITL: Am I being cross-examined by
15 Mr. Medders at this point?

16 MR. MEDDERS: Tell the Court. Don't tell me.

17 THE COURT: One at a time. Let me hear what
18 Mr. Meitl has to say.

19 MR. MEITL: Does the Court want me to respond to
20 questions of Counsel? The money laundering allegations
21 in the conspiracy in the drug conspiracy are clear in the
22 superseding indictment that the source of the laundered
23 funds is drug proceeds. They are confused if they think
24 it is the cocaine sales in the bathroom. That is not the
25 allegation.

1 MR. MEDDERS: Okay.

2 THE COURT: I am going to say this. If the Court
3 allows this, I think we need some type of instruction at
4 a minimum. I have not made a final decision, but if the
5 Court allows, I think to ensure the jury is not confused
6 or there is no undue prejudice, I need to make certain we
7 have some type of instruction and, frankly speaking, I
8 don't know that the instruction given in the Suarez case
9 would be sufficient in light what we have here, but we
10 will review those cases cited by the government.

11 The Court knows what the issue is, and we need to
12 move on. It is going to take a couple days to pick the
13 jury at least, so there is no need for the parties to ask
14 me how the Court has ruled tomorrow or the next day. You
15 will know before -- what the Court intends to do perhaps
16 before opening statement.

17 This is to both sides. The case does not hang or
18 fall on opening statements because opening statement is
19 not evidence. It is only what the parties believe the
20 evidence will show. I will take this matter under
21 advisement. I think I heard all of the arguments made.

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1 I certify that the foregoing is a correct transcript
2 from the record of proceedings in the above-entitled
3 matter. I further certify that the transcript fees
format comply with those prescribed by the court and the
Judicial Conference of the United States.

4 S/Charyse C. Crawford 09-23-2021
Signature _____ Date: _____
5 Charyse C. Crawford, CSR, RPR
6 United States Court Reporter
Northern District of Texas - Dallas Division

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